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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,533	03/23/2004	Christopher Dilluvio	5362-000485	3428

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EXAMINER

MORROW, JASON S

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,533

Applicant(s)

DILLUVIO, CHRISTOPHER

Examiner

Jason S. Morrow

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23,25-33,35-45 and 48-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23,25-27,33,35-41,45,48 and 51 is/are allowed.
- 6) ☒ Claim(s) 28-32,42 and 44 is/are rejected.
- 7) ☒ Claim(s) 43, 49, 50, and 52 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 28-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Willard (US Patent 6,508,502).

Re claim 28, Willard discloses a method of manufacturing a universal stowage area in an automotive vehicle for stowing a convertible roof and providing substantially an equivalent torsional rigidity to the stowage area regardless of the convertible roof being a soft-top or hard-top convertible roof, the method comprising positioning retaining mechanisms (72) in the stowage area of the automotive vehicle, attaching a moveable structural member (see column 3, lines 51-58) operable to engage with said retaining mechanisms to provide structural support and torsional rigidity to the storage area, and selectively securing said structural member to the stowage area of the vehicle with said retaining mechanisms and with said structural member extending in a cross-vehicle orientation in an upper half of the stowage area (Note the method is inherent to the structure of the invention).

Re claim 29, the method includes installing a second mechanism (shown in figure 4) in the stowage area that is operable to move said structural member between a first position (shown in figure 2) enabling said structural member to engage with said retaining mechanisms and a

Art Unit: 3612

second position (shown in figure 4) disengaged from said retaining mechanism and allowing clearance for raising and stowing a convertible roof.

Re claim 30, the method includes securing a decklid panel (14) to said second mechanism that moves with said structural member between said first and second positions.

Re claim 31, the method includes installing a hard-top (see column 3, line 3) convertible roof system in the vehicle.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willard (US Patent 6,508,502) in view of Antreich (US Patent Application Publication 2003/0042751).

Willard discloses all of the limitations of the claims, as applied above, except for the retractable roof being a soft-top.

Antreich teaches the use of a soft-top in an alternative construction to a hard-top construction (see paragraph 0008, lines 6-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a roof, such as that disclosed by Willard, to be a soft-top roof, as taught by

Art Unit: 3612

Antreich, in order to provide a different aesthetic appeal to different customers who may not like a hard top convertible.

5. Claims 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willard (US Patent 6,508,502) in view of Gotz et al. (US Patent 5,211,718).

Willard discloses a movable structural system for a vehicle body having a storage area, the system comprising a cover member operable between first and second positions to selectively cover at least a portion of the storage area, a pair of retaining mechanisms in the storage area, and a structural support member operable between engaged and disengaged positions with the retaining mechanisms and moving with the cover member in at least one operable position, the structural support member having a cross-vehicle portion that extends across the storage area in a cross-vehicle orientation when in the engaged position, the structural support member provided to provide structural support to and increase a torsional rigidity of a vehicle body.

Willard does not disclose the structural support member having a pair of downwardly extending portions that extend from the cross-vehicle portion, the downwardly extending portions being substantially vertically oriented when in the engaged position.

Gotz et al. teaches the use of a structural support member (8) having a pair of downwardly extending portions (the legs of the U-shape) that extend from a cross-vehicle portion (the horizontal portion of 8), the downwardly extending portions being substantially vertically oriented when in the engaged position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a structural support member, such as that disclosed by Willard, to have a

structural support member having a pair of downwardly extending portions that extend from a cross-vehicle portion, the downwardly extending portions being substantially vertically oriented when in the engaged position, as taught by Gotz et al., in order to construct the structural support member from a well-known and easily constructed shape.

Allowable Subject Matter

6. Claims 43, 49, 50, and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-23, 25-27, 33, 35-41, 45, 48, and 51 are allowed.

Response to Arguments

8. Applicant's arguments with regard to claims 28-32, 42, and 44 filed 6/1/06 have been fully considered but they are not persuasive.

Applicant's arguments center around whether the structural member disclosed by the Willard reference is capable of providing torsional rigidity to the vehicle. The structural member disclosed by reference is a roll-over bar. Roll bars are commonly constructed of rigid tubing capable of at least supporting the weight of a vehicle in the event that the vehicle overturns. In order to operate in such a manner, the roll bar must necessarily be constructed of strong materials capable of resisting a high compression load. It is also necessary that the bar be connected in a rigid and secure manner to the vehicle, otherwise the bar would simply be detached from its connections in a roll over situation as there is likely to be some type of moment force acting on

Art Unit: 3612

the bar in addition to the compressive force. Such a device, connected in a cross-vehicle manner as suggested by the Willard reference would necessarily provide significant torsional rigidity. It is a significantly rigid member connected between the two sides of the vehicle. It would function in a manner identical to that disclosed by Applicant's invention. Applicant's invention is essentially a rigid bar connected between two sides of a vehicle. As long as the prior art is capable of performing according to the functional language presented in the claim, then it anticipates the claim. In this case, the structure disclosed by the Willard reference is capable of performing according to the claimed invention.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663.

The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 9, 2006

Jason S. Morrow
Primary Examiner
Art Unit 3612


JASON MORROW
PRIMARY PATENT EXAMINER

8/9/06